

## **REMARKS**

This is a full and timely response to the outstanding nonfinal Office Action mailed November 14, 2005. Reconsideration and allowance of the application and presently pending claims, as amended, are respectfully requested.

### **1. Present Status of Patent Application**

Upon entry of the amendments in this response, claims 1-39 remain pending in the present application. More specifically, claims 1, 2, 5, 12-18, 21-23, 26-28, and 34-37 are directly amended to provide clarity. These amendments are specifically delineated in the listing of claims herein. It is believed that the foregoing amendments add no new matter to the present application.

### **2. Response to Rejections of Claims under 35 USC 112.**

Claims 5-7, 12, 16-33, and 35-36 are not Indefinite in light of the amendments to claims submitted herein.

#### **Claims 5 and 7**

The Office Action asserts that claim 5 is indefinite and confusing "because it is not clear if the amount of the anionic surfactant and a solvent are greater than 0.1% of the cleaning composition.

The Applicant has amended claim 5 such that the foaming aerosol cleaning composition comprises greater than 0.1% anionic surfactant. In this regard, the amendment clarifies the limitations of claim 5 to include those of base claims 1, 2 and the additional limitation that the composition comprises greater than 0.1% anionic surfactant.

Claim 7 discloses the ratio of anionic surfactant to solvent as being less than 0.1. The Applicant believes that with the amendment of claim 5 to clarify the limitation on the anionic surfactant, the meaning of the 0.1 ratio in claim 7 is likewise clarified.

#### **Claims 12, 17, 22, 27 and 35**

The Office Action asserts that claims 12, 17, 22, 27 and 35 are indefinite for a lack of antecedent basis of "the foam."

The Applicant has amended claims 1, 16 and 34 to include the element of “a foaming aerosol cleaning composition.” The Applicant has also amended claims 12, 17, 22, 27 and 35 to further clarify the foam limitation, e.g. “wherein foam of said composition.” Accordingly, the lack of antecedent basis for dependent claims 12, 17, 22, 27 and 35 is corrected.

**Claim 16**

The Office Action asserts that claim 16 is incomplete because the components of the cleaning composition have not been recited.

Applicant submits that claim 16 is not incomplete as the original claim scope was directed to the limitation of a cleaning composition that only penetrates less than 0.5 inches of a nylon carpet with fiber length of 0.50 inches under spray only conditions. IN this regard, Applicant believes that the addition of further limitations was not required. However, notwithstanding the foregoing, the Applicant has amended claim 16 to include cleaning composition components and, therefore, believes the rejection is overcome.

**3. Response to Rejections of Claims under 35 USC 102.**

Claims 1-2 and 8-9 are not Anticipated by WO 02/055650 (WO ‘650) or Scialla et al. 5,928,384 (Scialla).

The Office Action maintains that both WO ‘650 and Scialla anticipate the present invention by disclosing a “method of cleaning carpets comprising applying an aerosol carpet cleaning composition to the carpet, wiping the carpet with disposable cleaning substrate, and allowing the carpet to dry” and further disclose the use of “surfactants and solvents” in said cleaning composition.

For a proper rejection of a claim under section 102, the cited reference must disclose all elements, features, and steps of the claim. See e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 USPQ2d 1129 (Fed. Cir. 1988) (emphasis added).

Applicant respectfully asserts that neither the ‘650, nor the Scialla reference actually disclose the separate steps of applying an aerosol cleaning composition to a carpet surface and then using a disposable cleaning implement to wipe the carpet, as is

claimed in amended claims 1-2 and original claims 8-9. Instead, WO '650 teaches merely a wipe loaded with a **liquid** cleaning composition (see e.g., page 13, lines 17-28 disclosing "spraying", "dipping", "top filling" and "submersing" as methods to load the WO '650 cleaning composition onto a wipe and the "wicking properties" of said WO '650 cleaning composition), wherein the liquid cleaning composition is placed into contact with a carpet surface through the application of the wipe to the carpet surface. Likewise, Scialla merely discloses the use of a cleaning composition comprising "a liquid form" or "a granular form" or "a powdered form." See e.g., col. 2, lines 63-65.

As disclosed in the present application, the use of an **aerosol** cleaning composition having the claimed composition for carpet cleaning produces a **foam** when applied to a surface. As one of skill in the art will know, foams are distinguishable from liquid or solid cleaning compositions by definition and further by action upon a surface. For instance, in the present application, the "foam density," "foam break time," and "foam penetration" are factors in determining suitable aerosol cleaning compositions for carpet cleaning applications. Liquids or solid cleaning compositions, such as those disclosed in WO '650 and Scialla do not provide the same or similar benefits of a foaming aerosol cleaning composition.

The Applicant respectfully submits that neither WO '650 nor Scialla teaches a foaming aerosol cleaning composition as is disclosed and claimed in amended claim 1. Claims 2 and 8-9 depend upon amended claim 1. Accordingly, the Applicant submits that WO '650 and/or Scialla do not anticipate claim 1, and therefore dependant claims 2 and 8-9 likewise cannot be anticipated by WO '650 and/or Scialla.

The Applicant respectfully asserts that each of claims 1-2 and 8-9 are not anticipated and are presently allowable over WO '650 and/or Scialla.

#### **4. Response to Rejections of Claims under 35 USC 103.**

Claims 3-7 and 10-39 are not Rendered Obvious by WO '650 or Scialla in light of WO 02/06435 (WO '435) and Policicchio et al. 6,663,306 (Policicchio).

The Office Action asserts that claims 3-7 and 10-39 are rendered obvious under 35 U.S.C. 103(a) by the combination of WO '650 or Scialla with WO '435 and

Policicchio.

In order for a claim to be properly rejected under 35 U.S.C. §103, the combined teachings of the prior art references must suggest all features of the claimed invention to one of ordinary skill in the art. See, e.g., *In Re Dow Chemical*, 837, F.2d 469, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 USPQ 871, 881 (CCPA 1981).

As discussed above, neither WO '650 or Scialla teach the use of foam or foaming carpet cleaning compositions. In fact, both WO '650 and Scialla specifically teach that liquid cleaning compositions are preferred.

The Office Action maintains that WO '435 discloses "carpet cleaners comprising surfactant, solvent and the time to break the foam." However, Applicant notes that not only is the foaming aerosol cleaning composition important (i.e. that is comprises specific ratios and types of surfactants and solvents), but also that the foam characteristics and behaviours when applied to a carpet surface are important. That is, the Applicant believes the specific combinations of aerosol cleaning composition and foam characteristics, such as foam penetration and foam density, are not disclosed or taught by the asserted combinations. Moreover, the asserted combinations do not specifically disclose or teach the method of cleaning, the foaming aerosol cleaning compositions, or the articles of manufacture that are disclosed and claimed in the present application.

The Office Action maintains that Policicchio discloses the "cleaning composition, pad, wipe implement system and method of use thereof" as well as the "instruction and the absorbent capacity" as claimed. The Applicant asserts that Policicchio is limited to the cleaning of hard surfaces using an absorbent wipe attached to a cleaning implement, wherein the absorbent wipe may be preloaded with a liquid cleaner. Conversely, the Applicant directs its application to the cleaning on carpet surfaces using an absorbent wipe attached to a cleaning implement, wherein a foaming aerosol cleaning composition is sprayed onto the carpet surface prior to the engagement of the wipe on the cleaning implement with the surface to be cleaned.

The Office Action generally maintains that one skilled in the art would have combined the teachings of WO '650 and/or Scialla with WO '435 and/or Policicchio in

order to shorten the time of cleaning and to improve the cleaning process, such as by adjusting the concentration and ratios of the components to obtain optimum results. Applicant strongly disagrees that such achievements would be readily apparent and notes that the Office Action points to no specific teachings in any of the cited pieces of art to suggest their combination as such. Applicant maintains that it is not probable to point to such teachings in the art, because of the intricacies involved in developing the preferred foaming aerosol compositions, the preferred method of use and the article of manufacture that incorporates both the foaming aerosol cleaning composition and the preferred cleaning implement.

The Office Action also maintains that the penetration of the foaming aerosol into a carpet surface would be inherent in the cited references. Applicant again points out that WO '650, Scialla and Policicchio are directed to liquid cleaning applications on hard surfaces. Applicants believes that the use of liquids, instead of the claimed foams, would result in saturation of a soft surface. Applicant further believes that the level of penetration of liquids onto a soft surface would not be as controllable as with the use of a foam cleaning composition. Finally, the preferred levels of foam penetration in carpets disclosed in the present application would be unachievable and moot when applied on hard surfaces. Accordingly, the level of foam penetration is not inherent nor merely a function of foam density, but is instead a carefully cultivated characteristic of the preferred foaming aerosol cleaning composition as it is applied to carpet surfaces.

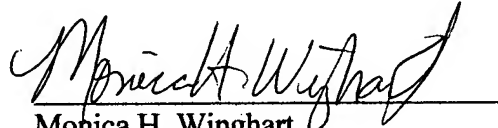
Applicant maintains that the specific foaming aerosol cleaning compositions, methods of cleaning using said foaming aerosol cleaning compositions and articles of manufacture including the use said compositions combined with a cleaning implement, are not rendered obvious by the cited art. In sum, Applicant has distinguished claims 3-7 and 10-39 of the present invention over the liquid cleaners for hard surfaces and the general foaming cleaners and has pointed out that there appears to be no specific teaching or suggestion to combine the cited references, as required, to achieve the embodiments claimed by Applicant. Therefore, Applicant maintains that claims 3-7 and 10-39 are in condition for allowance and respectfully requests same.

**CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated., and that the now pending claims 1-39 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (510) 271-7288.

Dated: Feb. 14, 2006

Respectfully submitted,



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